Application Number: 09/830,894
Amendment Dated: December 30, 2005
Reply to Office Action Dated: August 30, 2005

REMARKS

This amendment is being filed in conjunction with the attached RCE request. As noted above, this amendment should be entered after the entry of the claim amendments filed on November 28, 2005 as this amendment seeks to amend the claims as set forth in the November 28, 2005 Response. Also enclosed herewith is a Petition and fee for a one (1) month extension of time.

Claims 1 through 4, 6 through 34, 70, 106 through 108, 111 and 112 are pending in the present application upon entry of this amendment. Claims 105, 109 and 110 were cancelled in the Response filed on November 28, 2005 which will be entered in conjunction with the enclosed RCE. Claims 35 through 69 and 71 through 104 were previously canceled. Claims 1, 107 and 111 have been amended. In light of the above, entry of this Supplemental Response and the amendments contained therein is hereby respectfully requested.

With specific reference to the amendments to the claims, claim 1 has been amended to remove the term protein from the last line of claim 1. Claims 107 and 111 have been amended to address the revised 35 U.S.C. § 112, second paragraph, rejection as stated in the Advisory Action mailed December 15, 2005. Specifically, the term "poly-saccharide-proteins" has been removed from claims 107 and 111 in response to the Examiner's rejection of this term as unclear. Given the amendments made to claims 107 and 112, it is believed that the 35 U.S.C. § 112, second paragraph, rejection has been rendered moot and withdrawal thereof is believed due.

Additional Comments Regarding The 35 U.S.C. § 102(b) Rejection Based on the Examiner's Comments in the Advisory Action of December 15, 2005:

In the Advisory Action, the Examiner contends that the 35 U.S.C. § 102(b) rejection of claims 1 through 4, 10, 16 through 19, 21, 28, 31 through 34, 70 and 111 over Robertson et al. (Applied and Environmental Microbiology, November 1988, pp. 2812 – 2818) is still valid since Robertson et al. discloses the production of a biomass. Applicant

has considered the Examiner's comments in the Advisory Action and respectfully disagrees with the Examiner's contention that claims 1 through 4, 10, 16 through 19, 21, 28, 31 through 34, 70 and 111 lack novelty over Robertson et al. for at least the following reasons.

Initially, the Examiner contends that Robertson et al. discloses the production of at least biomass. As support for this proposition, the Examiner cites Table 2 on page 2814 of Robertson et al. As can be seen from the text in Robertson et al. related to the data presented in Table 2, the data in Table 2 supports the conclusion that the growth conditions disclosed in Robertson et al. resulted in a higher maximum specific growth rate and yielded less protein. Given the Examiner's reference to Table 2, it would seem that the Examiner is stating that the protein produced by the microorganism of Robertson et al. is the so-called biomass that is produced and recovered by Robertson et al.

Assuming the above statement is true, this fact still does not support the conclusion that the present invention as recited in pending claims 1 through 4, 6 through 34, 70, 106 through 108, 111 and 112 lack novelty. This is because Robertson et al. only discloses the production of a protein and does not further classify the nature of the protein recovered. As such, one of ordinary skill in the art would be unable to determine from the disclosure contained in Robertson et al. whether the protein recovered therein can correctly be classified as a biosurfactant, biopolymer and/or enzyme (emphasis added – see claim 1). As such, Robertson et al. clearly fails to disclose, teach or suggest the process of claim 1.

Furthermore, Robertson et al. is clearly not concerned with increasing the concentration of a microorganism in a medium, where the microorganism is capable of the production of at least one biosurfactant (emphasis added – see claim 70). As such, Robertson et al. clearly fails to disclose, teach or suggest the process of claim 70.

Since Robertson et al. fails to disclose each and every aspect of claims 1 and 70, and in particular those aspects emphasized above, Robertson et al. fails to anticipate claims 1 through 4, 10, 16 through 19, 21, 28, 31 through 34, 70 and 111. Accordingly,

withdrawal of the novelty rejection of claims 1 through 4, 10, 16 through 19, 21, 28, 31 through 34, 70 and 111 is believed due and is respectfully requested.

The Maintained 35 U.S.C. § 103(a) Rejection:

Claims 1 through 4, 6 through 34, 70, 106 through 108, 111 and 112 have been rejected under 35 U.S.C. § 103(a) over Robertson et al. in view of Wendt et al. (U.S. Patent No. 3,939,068), Brock et al. (Biology of Microorganisms, 3rd Edition, Prentice-Hall, Inc. 1979), and Wagner et al. (U.S. Patent No. 4,814,272). Robertson et al. is discussed above.

As stated in the Response filed on November 28, 2005, none of the secondary art cures the deficiencies in Robertson et al. As such, the combination of Robertson et al. with any one or more of Wendt et al.; Brock et al.; and Wagner et al. fails to render obvious claims 1 through 4, 6 through 34, 70, 106 through 108, 111 and 112. Accordingly, withdrawal of the obviousness rejection of claims 1 through 4, 6 through 34, 70, 106 through 108, 111 and 112 is believed due and is respectfully requested.

Conclusion:

For the foregoing reasons, the rejections under 35 U.S.C. §§ 102(b), 103(a), and 112, second paragraph, are believed to be unfounded. Accordingly, withdrawal of the pending rejections and allowance of all of the pending claims is respectfully requested.

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Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,

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